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AT&T

Robert W. Quinn, Jr.
Director - Federal Government Affairs

Suite 1000
1120 20th St., NW
Washington, DC 20036
202 457-3851
FAX 202 457-2545

September 3, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW, Room TWB-204
Washington, DC 20554

RE: Ex Parte – CC Docket 98-121
Second Application by BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provisioning of In-Region, interLATA Service in Louisiana

Dear Ms. Salas:

On Thursday, September 2, 1999, Rich Rubin, Mike Kalb and Mike Pfau, all of AT&T, met with the Michael Pryor, Claudia Pabo, Andrea Kearney, Jessica Rosenworcel, Jon Reel, Julie Patterson, Raj Kannan, Johanna Mikes, John Stanley, Daniel Shiman, Alex Belinfante, Sanford Williams and Eric Einhorn of the Commission Staff to discuss the New York Performance Assurance Plan. The attached presentation was used in our discussion.

Two copies of this Notice and the attachment are being submitted to the Secretary of the FCC in accordance with Section 1.1206(b)(1) of the Commission's rules.

Sincerely,

Robert W. Quinn, Jr.

Attachments

No. of Copies rec'd 0+2
List ABCDE

Recycled Paper

INCENTIVE PROPOSAL FOR BELL ATLANTIC-NEW YORK

September 1, 1999

Guiding Principles

- Incentives Must Be Great Enough To Cause BANY To Relinquish Its Monopoly Power And Meet Its Statutory Obligations
  - Parity
  - Providing CLECs A Meaningful Opportunity To Compete
- Incentives Must Be Self-Executing And Applied Without Undue Delay Or Need For Additional Litigation

Guiding Principles
(continued)

- Incentives Should Escalate With Repeated Or Poor Performance
- The Incentive Structure Must Be Fairly Simple To Implement And Monitor
- The Incentive Structure Must Be Based On A Verified And Verifiable Performance Measurement and Reporting System

Guiding Principles
(continued)

- An Appropriately Disaggregated Set Of Measurements Is A Prerequisite
- There Must Be Minimal Opportunities For BANY To Game The System

CLEC Incentive Plan Components

- Identify Performance Submeasures To Which Incentive Payments Will Apply
  - Parity Submeasures
  - Benchmarks
- Audit For Completeness Of Data Collection And All Aspects Of Data Calculation And Reporting
- Define Tests To Be Used

CLEC Incentive Plan Components

- Determine Critical Values (when applicable)
- Address Small Data Set (Sample) Issues
- Establish Incentive Structure And Amounts
- Consider Possible Mitigation Factors
- Consequences for Failure to Report, Correctly, Timely and Completely

Reporting Measures

- Use LCUG 7.0 Measures And Incorporate Additional New York C2C Measures (Especially Hot Cut Performance)
- All Measures Must Be Subject To Appropriate Disaggregation
- Assure That There Are No Inappropriate Exclusions From Reported Data

Applicable Test - Parity Submeasures

- CLECs And BANY Agree On Use Of The Modified Z Statistic
- Apply 85% Confidence Level To Balance Type I and Type II Error
- Use Permutation Test For Small Data Set (Sample) Sizes (<30)

Applicable Test - Benchmarks

- No Statistical Test Is Required (Benchmark Already Accounts For Variability)
- Each Test Is Passed Or Failed According To Its Individual Standard
- Apply An Adjustment For Small Data Set (Sample) Sizes

Two-Tiered Incentive Payment Structure

- Tier I: Payments To Individual CLECs Based On BANY Discriminatory Performance For That Carrier
  - CLECs May Also Seek Actual Damages (Less Tier I Payments) Per Contract Terms Or Litigation
- Tier II: Payments To State-Designated Fund For BANY's Discriminatory Performance For The CLEC Industry In The Aggregate

Tier I Performance "Failure" Criteria
(Parity Submeasurements)

- Compliant Modified $Z > -1.04$
- Basic Violation: $-1.04 \leq$ Modified $Z < -1.65$
- Intermediate: $-1.65 \leq$ Modified $Z < -3.00$
- Severe: Modified $Z \leq -3.00$
- All Violations Count - No Offsets Based On Future Activity Or Performance

Note: The Value of the Critical Z-Statistic May Be Positive or Negative Depending Upon Whether A Larger CLEC Value Indicates Better Or Worse Performance. The Above Assumes A "Larger" CLEC Value (vis-à-vis the ILEC) Indicates Worse Performance

Tier I Performance "Failure" Criteria
(Benchmark Submeasurements)

- Compliant: **$\leq$ 5% of occurrences fail to meet benchmark**
- Basic Violation: **> 5% but < 7.5% of occurrences fail**
- Intermediate: **$\geq$ 7.5% but < 10% of occurrences fail**
- Severe: **$\geq$ 10% of occurrences fail to meet benchmark**
- All Violations Count - No Offsets Based On Future Activity Or Performance

Note: The Above Is Based On A Benchmark Having The Form "95% Within X." Furthermore, No Treatment Is Afforded To Small Data Sets In The Above Example, But Such Treatment Is Routine To Implement

Tier I Consequences For Failures In The Report Month

Type of Failure	Applicable Incentive (per failed submeasure for each CLEC in a month)
Basic	$2,500
Intermediate	$5,000
Severe	$25,000

Above Incentives Are Applicable To Both Parity And Benchmark Measurement Failures

Tier I Consequences For Consecutive Month Failures

- Regardless of the Type of Submeasurement, Consecutive Months of Performance Failure Should Result In A More Sizeable Consequence
- At A Minimum, The Third Consecutive Month Of Failure Should Invoke A Consequence $\geq$ That Applicable To A Severe Failure (i.e., \$25,000)
- The "Chronic Override" Amount Should Apply For Each Subsequent Month Until Compliant Performance Is Re-Established

Treatment of Small Data Sets

- Permutation Analysis Employed for Small Data Sets (e.g., Fewer Than Thirty CLEC Observations) For Parity Submeasurements
- Adjustment Table Employed for Benchmarks (Must Use Consistent Type I Error Assumption)

Sample Benchmark Adjustment Table

CLEC Data Set Size	Benchmark Percentages (Applicable to Data Sets < 30)		
	90.0%	95.0%	99.0%
5	80.0%	80.0%	100.0%
6	83.3%	83.3%	100.0%
7	85.7%	85.7%	100.0%
8	75.0%	87.5%	100.0%
9	77.8%	88.9%	100.0%
10	80.0%	90.0%	100.0%
20	85.0%	90.0%	95.0%
30	83.3%	90.0%	97.5%

Table Can Be Calculated to Account for All Data Set Sizes

Tier II

- Necessary To Provide Sufficient Incentives For BANY To Act Contrary To Its Business Interest To Maintain Its Current Monopoly
- Based On Aggregate Performance Results For All CLECs On The Measures Defined In Tier I
- Criterion For Failure Is 95% Confidence Level, (i.e., Substantially More Stringent Than Tier I)
- Uses The Same Data And Largely the Same "Rules" As Tier I

Tier II Performance "Failure" Criteria
(Parity Submeasurements)

- Compliant Modified $Z > -1.65$
- Market Impacting: $-1.65 \leq$ Modified $Z < -3.00$
- Market Damaging: Modified $Z \leq -3.00$
- All Violations Count - No Offsets Based On Future Activity Or Performance

Note: The Value of the Critical Z-Statistic May Be Positive or Negative Depending Upon Whether A Larger CLEC Value Indicates Better Or Worse Performance. The Above Assumes A "Larger" CLEC Value (vis-à-vis the ILEC) Indicates Worse Performance

Tier II Performance "Failure" Criteria
(Benchmark Submeasurements)

- Compliant: **$\leq$ 7.5% of occurrences fail to meet the benchmark**
- Market Impacting: **> 7.5% but < 10% of occurrences fail**
- Market Damaging: **$\geq$ 10% of occurrences fail**
- All Violations Count - No Offsets Based On Future Activity Or Performance

Note: The Above Is Based On A Benchmark Having The Form "95% Within X." Furthermore, No Treatment Is Afforded To Small Data Sets In The Above Example, But Such Treatment Is Routine To Implement

Tier II Consequences For Failures In The Report Month

Type of Failure	Applicable Incentive (per failed submeasure for aggregate of all CLECs in a month)
Market Impacting	**n*$5,000**
Market Damaging	**n*$25,000**

Above incentives are applicable to both parity and benchmark measurement failures. N is a multiplicative factor based upon openness of market to competition

Tier II - Determining "n"

- "n" Is Set At A Level That Reflects The Current Level Of Local Competition, Based Upon FCC-Reported Data

Lines provided to CLECs	**Value of "n"**
greater than 50%	0
more than 40% less than 50%	1
more than 30% less than 40%	2
more than 20% less than 30%	4
more than 10% less than 20%	6
more than 5% less than 10%	8
0% to less than 5%	10

Current value for BA-NY

Tier II (Alternate Structure)

- Incentives Triggered If The Number Of Violations (K), Based On Aggregate CLEC Data, Exceeds The Amount That Could Be Expected Due To Randomness
- Threshold Based On A Type I Error Rate Of 5 Percent
- Each Violation Imposes A Payment Obligation Of a Minimum of $0.50 Per BANY Access Line
- Repeated Violation Causes $/Line Amount to Escalate

Tier II (Alternate Structure)

- The "k" Value, Calculated At The 95% Confidence Level, Determines Whether The Number Of Performance Failures Exceeds Those That Would Occur Due To Randomness

Mitigation Considerations

Forgiveness Plan For Tier I Violations

- Forgivenesses Only Apply To Parity Submeasures - No Forgiveness For Benchmark Failures
- One Forgiveness For Each Submeasure Every 6 Months
- BANY Cannot Accumulate More Than 2 Forgivenesses For Any Submeasure